

ORIGINAL

OPEN MEETING AGENDA ITEM



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BEFORE THE ARIZONA CORPORATION CC

EXCEPTION

COMMISSIONERS Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, L.L.C., FOR AN
INCREASE IN ITS WATER AND WASTE-
WATER RATES FOR CUSTOMERS
WITHIN PINAL COUNTY, ARIZONA.

DOCKET NO. WS-02987A-08-0180

**EXCEPTIONS OF JOHNSON UTILITIES
TO STAFF'S REPORT AND ORDER RE
CAGR D ADJUSTER**

On October 8, 2015, Johnson Utilities, L.L.C. ("Johnson Utilities" or "Company") filed with the Arizona Corporation Commission ("Commission") its proposed Central Arizona Groundwater Replenishment District ("CAGR D") adjustor fees for the Phoenix and Pinal Active Management Areas ("AMAs") to become effective December 1, 2015.¹ In its filing, Johnson Utilities reported that it collected \$3,191,879.44 less in CAGR D fees from customers in the Phoenix AMA for the time period 2011-2014 than it paid to the CAGR D in taxes over the same period. After minor adjustments, the amount of the under-collection was subsequently adjusted downward to \$3,148,053.63.

The Company also reported in its filing that it collected \$262,617.94 less in CAGR D fees from customers in the Pinal AMA for the 2011-2014 time period than it paid to the CAGR D in taxes over the same period. After minor adjustments, the amount of the under-collection was subsequently adjusted upward slightly to \$262,915.26. The total amount of the under-collection for 2011-2014 for both the Phoenix and Pinal AMAs is \$3,410,968.89 as shown on the spreadsheet attached hereto as Attachment 1. Upon information and belief, Johnson Utilities does not believe that there is any dispute between Utilities Division Staff ("Staff") and the Company regarding these numbers.

¹ On November 6, 2015, Johnson Utilities filed a notice consenting to an extension of the time for filing the Staff Report and Order on the Company's proposal.

1 In calculating the new CAGR D adjuster fees for the upcoming 12-month period, Johnson
2 Utilities included the under-collected amounts from the 2011-2014 time period. This produced a
3 CAGR D adjuster fee of \$3.23 per 1,000 gallons for the Phoenix AMA and \$1.75 per 1,000 gallons
4 for the Pinal AMA. However, in order to lessen the rate impact to customers, Johnson Utilities
5 proposed to recover the under-collected amounts over two years. Thus, the Company has
6 proposed a CAGR D adjuster fee of \$2.57 per 1,000 gallons for the Phoenix AMA and \$1.23 per
7 1,000 gallons for the Pinal AMA.

8 On January 19, 2016, Utilities Division Staff ("Staff") filed its Staff Report and Order
9 addressing Johnson Utilities' filing. Staff rejected the Company's request as submitted and
10 instead recommended CAGR D adjuster fees of \$1.61 per 1,000 gallons for the Phoenix AMA and
11 \$0.91 per 1,000 gallons for the Pinal AMA. However, Staff's recommended adjuster fees leave
12 Johnson Utilities with significant under-collected CAGR D taxes in both the Phoenix and Pinal
13 AMAs, and they virtually ensure that the under-collection problem will grow worse. This is
14 clearly contrary to the Commission's express language in Decision 71854 which states as follows:

15 The CAGR D assessment fee is not discretionary for companies such as Johnson
16 Utilities, and the Commission believes that the CAGR D participation represents the
17 kind of investment that is appropriate for timely cost recovery. To not allow the
18 Company to recover its CAGR D costs in real time may threaten the Company's
19 ability to participate in the CAGR D program and would send a negative signal to
water providers regarding this Commission's support for sound regional
approaches to achieving safe yield in Active Management Areas.²

20 In prior years, Johnson Utilities has calculated its CAGR D adjuster fees based upon a
21 methodology that was prescribed by Staff. This flawed methodology—which offsets nearly two
22 years of CAGR D adjuster fee revenue against the CAGR D assessment for a single year—has
23 caused the current situation where the Company has collected \$3.4 million less from customers
24 than the taxes it has paid the CAGR D for the same time period. This is not "timely cost recovery"
25 as required in Decision 71854. Moreover, if the calculation methodology does not change, the
26 under-collection will grow larger and larger.

27
28 ² Decision 71854 at 44, lines 2-8 (emphasis added).

1 Staff states in its Report and Order that “[i]n its 2015 CAGR D adjuster reset, the Company
2 is proposing a new calculation methodology that will match the CAGR D collections for a specific
3 year to the CAGR D invoice that was generated by the usage for that year.”³ That is correct. The
4 methodology used by Johnson Utilities to calculate the proposed new CAGR D adjuster fees is
5 more appropriate because it properly matches the amounts paid by customers under the CAGR D
6 adjuster in a single calendar year to the CAGR D tax bill for that same calendar year. This
7 methodology is fully consistent with Condition 6 of Decision 71854 which states as follows:

8 The CAGR D adjuster fees shall be calculated as follows: The total CAGR D fees
9 for the most current year in the Phoenix AMA shall be divided by the gallons sold
10 in that year to determine a CAGR D fee per 1,000 gallons. Similarly, the total
11 CAGR D fees for the most current year in the Pinal AMA shall be divided by the
12 gallons sold in that year to determine a CAGR D fee per 1,000 gallons.⁴

13 Johnson Utilities receives its CAGR D tax bill 8-9 months after the end of the year to which
14 the bill applies. For example, the Company received its CAGR D tax bill for the 2014 calendar
15 year in August 2015. Applying Condition 6 above, Johnson Utilities matched the fees paid by
16 customers under the CAGR D adjuster in 2014 with the tax bill for 2014. This methodology is
17 easy to apply and it follows the matching principal in utility accounting. For these reasons, the
18 methodology utilized by Johnson Utilities is better than the methodology utilized by Staff.

19 Staff also states in its Report and Order that “any proposed alterations to the current
20 calculation methodology and any cumulative true-up would be more appropriately addressed
21 within the context of a full rate case where the CAGR D adjuster mechanism can be considered
22 along with all other rate issues.”⁵ Staff’s view is contrary to the express language of Decision
23 71854 quoted above which makes clear that CAGR D costs should be recovered “timely” and “in
24 real time.” Moreover, delaying the issue will virtually guarantee that the Commission is
25 addressing an under-collection approaching \$5 million by 2017 at the very same time that it is
26 addressing a requested rate increase by the Company. Johnson Utilities would add also that there
27 is no need to modify Decision 71854 to allow the methodology utilized by Johnson Utilities. In
28 fact, the Company’s methodology more closely adheres to the language of the decision than that

³ Staff Report and Order (January 19, 2016) at 2.

⁴ Decision 71854 at 38, lines 22-26.

⁵ Staff Report and Order (January 19, 2016) at 3.

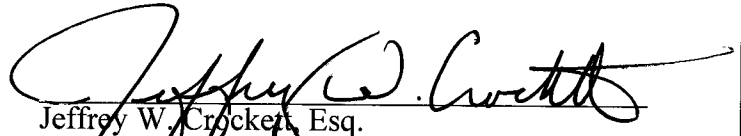
1 required by Staff. For all of these reasons, Johnson Utilities urges the Commission to reject
2 Staff's proposal that this urgent problem be addressed in a future rate case.

3 Johnson Utilities would also point out that the Company already files two reports in the
4 docket each year concerning the amounts collected under the CAGRDR adjuster and the amounts
5 disbursed to pay CAGRDR tax assessments. Thus, there are ample opportunities for Staff to verify
6 that the CAGRDR adjuster mechanism is functioning as intended by the Commission and that the
7 interests of rate payers are protected.

8 Johnson Utilities requests that the Commission approve the methodology used by the
9 Company to calculate the CAGRDR adjuster fees for the coming 12-month period as well as the
10 proposed true-up to recover the under-collected CAGRDR taxes over the next two years. This
11 produces a CAGRDR adjuster fee for the Phoenix AMA of \$2.57 per 1,000 gallons and a fee of
12 \$1.23 for the Pinal AMA. For the Commission's convenience and consideration, attached hereto
13 as Attachment 2 is Johnson Utilities' Proposed Amendment No. 1 which makes the requested
14 changes to the order included with the Staff Report and Order.

15 RESPECTFULLY submitted this 29th day of January, 2016.

16 CROCKETT LAW GROUP PLLC

17 

18 Jeffrey W. Crockett, Esq.
19 2198 East Camelback Road, Suite 305
20 Phoenix, Arizona 85016-4747
Attorney for Johnson Utilities, L.L.C.

21 ORIGINAL and thirteen (13) copies
22 filed this 29th day of January, 2016, with:

23 Docket Control
24 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

25 COPIES of the foregoing hand-delivered
26 this 29th day of January, 2016, to:

27 Dwight Nodes, Chief Administrative Law Judge
28 Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

1 Janice Alward, Chief Counsel
Legal Division
2 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
3 Phoenix, Arizona 85007

4 Thomas M. Broderick, Director
Utilities Division
5 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
6 Phoenix, Arizona 85007

7 COPIES of the foregoing mailed via first class
U.S. mail this 29th day of January, 2016, to:

8 Daniel Pozefsky, Chief Counsel
9 RESIDENTIAL UTILITY CONSUMER OFFICE
1110 West Washington Street, Suite 220
10 Phoenix, Arizona 85007

11 Florence Town Attorney
TOWN OF FLORENCE
12 775 N. Main Street
P.O. Box 2670
13 Florence, Arizona 85253

14 Craig A. Marks, Esq.
CRAIG A. MARKS, PLC
15 10645 N. Tatum Blvd., Suite 200-676
Phoenix, Arizona 85028

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ATTACHMENT 1

Johnson Utilities, LLC
GAGR D - Summary of Fees Collected

1/25/2016

Summary of CAGR D Invoices/1U Collection of Fees

	2011		2012		2013		2014		Total
Phoenix AMA									
CAGR D Invoice	\$ 3,070,866.12		\$ 3,113,035.56		\$ 4,176,509.30		\$ 4,599,237.44		\$ 14,959,648.42
Fees Collected from Customers	\$ 1,742,460.90		\$ 1,984,962.78		\$ 3,741,551.00		\$ 4,342,620.11		\$ 11,811,594.79
Over/(Under) Collections	\$ (1,328,405.22)		\$ (1,128,072.78)		\$ (434,958.30)		\$ (256,617.33)		\$ (3,148,053.63)
Pinal AMA									
CAGR D Invoice	\$ 72,995.62		\$ 117,186.64		\$ 99,681.03		\$ 321,496.59		\$ 611,359.88
Fees Collected from Customers	\$ 56,219.38		\$ 57,719.01		\$ 86,274.94		\$ 148,231.29		\$ 348,444.62
Over/(Under) Collections	\$ (16,776.24)		\$ (59,467.63)		\$ (13,406.09)		\$ (173,265.30)		\$ (262,915.26)
Cumulative (Combined AMA's)									
CAGR D Invoice	\$ 3,143,861.74		\$ 3,230,222.20		\$ 4,276,190.33		\$ 4,920,734.03		\$ 15,571,008.30
Fees Collected From Customers	\$ 1,798,680.28		\$ 2,042,681.79		\$ 3,827,825.94		\$ 4,490,851.40		\$ 12,160,039.41
Over/(Under) Collections	\$ (1,345,181.46)		\$ (1,187,540.41)		\$ (448,364.39)		\$ (429,882.63)		\$ (3,410,968.89)

Company True-up (2014 & Cumulative)

	Phoenix AMA		Pinal AMA	
	2014	Cumulative	2014	Cumulative
a. 2014 CAGR D Invoice	\$ 4,599,237.44	\$ 4,599,237.44	\$ 321,496.59	\$ 321,496.59
b. Cumulative Under-collection (2011-2014)		\$ 3,148,053.63		\$ 262,915.26
c. Amount to be recovered 2014	\$ 4,599,237.44	\$ 7,747,291.07	\$ 321,496.59	\$ 584,411.85
d. Total water sold in 2014 (1,000 gallons)	2,409,289	2,409,289	332,894	332,894
e. Charge per 1,000 gallons [C ÷ D]	\$ 1.91	\$ 3.22	\$ 0.97	\$ 1.76

Condition No. 6 in Decision No. 71854 (08/25/2010)

"The CAGR D adjustor fee shall be calculated as follows: The total CAGR D fee for the most current year in the Phoenix AMA shall be divided by the gallons sold in that year to determine a CAGR D fee per 1,000 gallons. Similarly, the total CAGR D fees for the most current year in the Pinal AMA shall be divided by the gallons sold in that year to determine a CAGR D fee per 1,000 gallons."

ATTACHMENT 2

PROPOSED AMENDMENT # 1

DATE PREPARED: January 29, 2016

COMPANY: Johnson Utilities, L.L.C.

DOCKET NO.: WS-02987A-08-0180

OPEN MEETING DATES: February 2-3, 2016 AGENDA ITEM: U-14

Page 2, line 5,

ADD a new Finding of Fact No. 3 as follows:

3. On January 19, 2016, Utilities Division Staff ("Staff") filed a Staff Report and Order recommending CAGR fees different than those proposed by the Company. On January 29, 2016, the Company filed exceptions to the Staff Report and Order.

RENUMBER the remaining Findings of Fact.

Page 3, lines 10-11,

DELETE "The Commission-approved calculation follows condition No. 6 of Decision No. 71854, which" and REPLACE WITH "Staff's calculation"

Page 3, line 18,

DELETE "\$3,191,879" and REPLACE WITH "\$3,148,054"

Page 3, line 19,

DELETE "\$262,618" and REPLACE WITH "\$262,915"

Page 3, line 20,

DELETE "\$3.23" and REPLACE WITH "\$3.22"

Page 3, line 20,

DELETE "\$1.75" and REPLACE WITH "\$1.76"

Page 4, line 11,

ADD a new Finding of Fact 10 as follows:

10. The Company asserts that Staff's methodology is flawed because it offsets nearly two years of CAGR adjuster fee revenue against the CAGR assessment for a single year, which has created the current situation where the Company has collected \$3,410,969 less from customers than what it has paid the CAGR for the same time period. In addition, the Company believes that Staff's recommendation to address the issue in a future rate case should be rejected because a delay in cost recovery is contrary to the express language of Decision 71854 which states that CAGR costs should be recovered timely and in real time, because delaying the issue will make the current under-collection a larger problem to deal with in the rate case, and because the Company's methodology is consistent with Decision 71854 and thus requires no modification of the decision.

RENUMBER the remaining Findings of Fact.

Page 8, line 7,

DELETE Conclusion and Recommendation No. 6 on line 7 and REPLACE WITH the following:

6. We find that the Company's requested CAGR adjuster fees are reasonable and should be adopted.

Page 8, line 22,

DELETE "\$1.61" and REPLACE WITH "\$2.57"

Page 8, line 22,

DELETE "\$0.91" and REPLACE WITH "\$1.23"

Make all other conforming changes.